

# HOUSE BILL 1102

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CF SB 626

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By: **Delegates Dumais, Clippinger, A. Kelly, Lee, Simmons, Valderrama, and Waldstreicher**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse – Failure to Report – Civil Penalty and Child Abuse Prevention**  
3 **Fund**

4 FOR the purpose of authorizing the Attorney General to institute a civil action against  
5 certain professionals who fail to report child abuse or neglect under certain  
6 circumstances; establishing a certain civil penalty for each violation; requiring  
7 a civil penalty collected under this Act to be deposited in the Child Abuse  
8 Prevention Fund; establishing that the civil penalty established under this Act  
9 is in addition to any other penalty provided by law; providing for the  
10 construction of certain provisions of this Act; establishing the Child Abuse  
11 Prevention Fund; requiring the Governor’s Office of Crime Control and  
12 Prevention to administer the Fund; specifying the purpose of the Fund;  
13 establishing that the Fund is a special, nonlapsing fund, not subject to certain  
14 provisions of law; requiring the State Treasurer to hold the Fund and the  
15 Comptroller to account for the Fund; specifying the contents of the Fund;  
16 providing for the investment of money in the Fund; establishing that money  
17 expended from the Fund is not intended to take the place of certain other  
18 funding; defining a certain term; and generally relating to child abuse and  
19 neglect.

20 BY repealing and reenacting, without amendments,  
21 Article – Family Law  
22 Section 5–704  
23 Annotated Code of Maryland  
24 (2006 Replacement Volume and 2011 Supplement)

25 BY adding to  
26 Article – Family Law  
27 Section 5–704.2  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2006 Replacement Volume and 2011 Supplement)

2 BY repealing and reenacting, with amendments,  
3 Article – State Finance and Procurement  
4 Section 6–226(a)  
5 Annotated Code of Maryland  
6 (2009 Replacement Volume and 2011 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article – Family Law**

10 5–704.

11 (a) Notwithstanding any other provision of law, including any law on  
12 privileged communications, each health practitioner, police officer, educator, or human  
13 service worker, acting in a professional capacity in this State:

14 (1) who has reason to believe that a child has been subjected to abuse  
15 or neglect, shall notify the local department or the appropriate law enforcement  
16 agency; and

17 (2) if acting as a staff member of a hospital, public health agency, child  
18 care institution, juvenile detention center, school, or similar institution, shall  
19 immediately notify and give all information required by this section to the head of the  
20 institution or the designee of the head.

21 (b) (1) An individual who notifies the appropriate authorities under  
22 subsection (a) of this section shall make:

23 (i) an oral report, by telephone or direct communication, as  
24 soon as possible to the local department or appropriate law enforcement agency; and

25 (ii) a written report:

26 1. to the local department not later than 48 hours after  
27 the contact, examination, attention, or treatment that caused the individual to believe  
28 that the child had been subjected to abuse or neglect; and

29 2. with a copy to the local State’s Attorney.

30 (2) (i) An agency to which an oral report of suspected abuse or  
31 neglect is made under paragraph (1) of this subsection shall immediately notify the  
32 other agency.

1                   (ii) This paragraph does not prohibit a local department and an  
2 appropriate law enforcement agency from agreeing to cooperative arrangements.

3           (c) Insofar as is reasonably possible, an individual who makes a report under  
4 this section shall include in the report the following information:

5                   (1) the name, age, and home address of the child;

6                   (2) the name and home address of the child's parent or other person  
7 who is responsible for the child's care;

8                   (3) the whereabouts of the child;

9                   (4) the nature and extent of the abuse or neglect of the child, including  
10 any evidence or information available to the reporter concerning possible previous  
11 instances of abuse or neglect; and

12                   (5) any other information that would help to determine:

13                           (i) the cause of the suspected abuse or neglect; and

14                           (ii) the identity of any individual responsible for the abuse or  
15 neglect.

16 **5-704.2.**

17           **(A) (1) THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION**  
18 **AGAINST A PERSON WHO VIOLATES § 5-704 OF THIS SUBTITLE, BY FAILING TO**  
19 **REPORT ABUSE OR NEGLECT OF A CHILD, TO RECOVER FOR THE STATE A CIVIL**  
20 **PENALTY NOT EXCEEDING \$100,000 FOR EACH VIOLATION IF:**

21                   **(I) A CHILD COMMUNICATED DIRECTLY WITH THE PERSON**  
22 **REGARDING THE CHILD'S OWN ABUSE OR NEGLECT AND THE CHILD WAS UNDER**  
23 **THE AGE OF 18 YEARS WHEN THE COMMUNICATION OCCURRED; OR**

24                   **(II) THE PERSON OBSERVED THE ABUSE OR NEGLECT.**

25                   **(2) A CIVIL PENALTY COLLECTED UNDER THIS SUBSECTION**  
26 **SHALL BE DEPOSITED IN THE CHILD ABUSE PREVENTION FUND.**

27                   **(3) THE CIVIL PENALTY ESTABLISHED UNDER THIS SUBSECTION**  
28 **IS IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW.**

29                   **(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT:**

1                   **(I) A VICTIM’S RIGHT TO RESTITUTION UNDER TITLE 11,**  
2 **SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE; OR**

3                   **(II) ANY OTHER CAUSE OF ACTION AGAINST A PERSON WHO**  
4 **VIOLATES § 5–704 OF THIS SUBTITLE.**

5           **(B) (1) IN THIS SUBSECTION, “FUND” MEANS THE CHILD ABUSE**  
6 **PREVENTION FUND.**

7                   **(2) THERE IS A CHILD ABUSE PREVENTION FUND.**

8                   **(3) THE GOVERNOR’S OFFICE OF CRIME CONTROL AND**  
9 **PREVENTION SHALL ADMINISTER THE FUND.**

10                   **(4) (I) THE FUND SHALL BE USED TO PROVIDE GRANTS TO**  
11 **PROGRAMS FOR THE PURPOSE OF PREVENTING ABUSE AND NEGLECT.**

12                   **(II) THE GRANTS:**

13                               **1. SHALL BE EQUITABLY DISTRIBUTED**  
14 **THROUGHOUT THE STATE;**

15                               **2. SHALL BE MADE TO RECIPIENTS WHO HAVE**  
16 **SPECIALIZED EXPERTISE IN RESPONDING TO VICTIMS OF ABUSE OR NEGLECT;**  
17 **AND**

18                               **3. MAY BE MADE TO PRIVATE NONPROFIT**  
19 **ORGANIZATIONS, PUBLIC PROGRAMS, OR PARTNERSHIPS AMONG THESE**  
20 **ENTITIES.**

21                   **(5) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS**  
22 **NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT**  
23 **ARTICLE.**

24                   **(II) THE STATE TREASURER SHALL HOLD THE FUND**  
25 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

26                   **(6) THE FUND CONSISTS OF:**

27                               **(I) MONEY DEPOSITED IN THE FUND FROM THE CIVIL**  
28 **PENALTY COLLECTED UNDER SUBSECTION (A) OF THIS SECTION;**

29                               **(II) INVESTMENT EARNINGS OF THE FUND; AND**

1                   (III) ANY OTHER MONEY FROM ANY OTHER SOURCE  
2 ACCEPTED FOR THE BENEFIT OF THE FUND.

3                   (7) THE STATE TREASURER SHALL:

4                   (I) INVEST AND REINVEST THE FUND IN THE SAME MANNER  
5 AS OTHER STATE FUNDS; AND

6                   (II) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

7                   (8) MONEY EXPENDED FROM THE FUND TO PROVIDE GRANTS TO  
8 PROGRAMS FOR THE PURPOSE OF PREVENTING CHILD ABUSE OR NEGLECT IS  
9 SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE PLACE OF, FUNDING  
10 THAT OTHERWISE WOULD BE APPROPRIATED FOR THESE PROGRAMS.

11                   Article – State Finance and Procurement

12 6–226.

13                   (a) (1) Except as otherwise specifically provided by law or by regulation of  
14 the Treasurer, the Treasurer shall credit to the General Fund any interest on or other  
15 income from State money that the Treasurer invests.

16                   (2) (i) Notwithstanding any other provision of law, and unless  
17 inconsistent with a federal law, grant agreement, or other federal requirement or with  
18 the terms of a gift or settlement agreement, net interest on all State money allocated  
19 by the State Treasurer under this section to special funds or accounts, and otherwise  
20 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue  
21 to the General Fund of the State.

22                   (ii) The provisions of subparagraph (i) of this paragraph do not  
23 apply to the following funds:

24                   1. Maryland Housing Loan Funds of 1976, 1978, 1979,  
25 and 1984;

26                   2. Microsoft Cost Share Fund;

27                   3. Subsequent Injury Fund;

28                   4. Uninsured Employers' Fund;

29                   5. State Agency Loan Program Fund;

30                   6. Jane E. Lawton Conservation Loan Program;

- 1 7. Energy Overcharge Restitution Fund;
- 2 8. PEPCO/Connectiv Settlement Fund;
- 3 9. Baseball Capital Improvements Fund;
- 4 10. State Victims of Crime Fund;
- 5 11. Juvenile Accountability Incentive Block Grant Fund;
- 6 12. Victim and Witness Protection and Relocation Fund;
- 7 13. Unclaimed Restitution – Victims of Crime;
- 8 14. Justice Assistance Grant;
- 9 15. Byrne Justice Assistance Grant;
- 10 16. Maryland Election Modernization Fund;
- 11 17. Scriven Estate Fund;
- 12 18. Volunteer Company Assistance Fund;
- 13 19. Radoff Memorial Fund;
- 14 20. Archives Endowment Account within the Archives  
15 Fund;
- 16 21. Ellefson Endowment Fund;
- 17 22. Albert C. Ritchie Memorial Fund;
- 18 23. Rate Stabilization Fund;
- 19 24. Maryland Health Insurance Plan Fund;
- 20 25. Fair Campaign Financing Fund;
- 21 26. State Employees and Retirees Health and Welfare  
22 Benefits Fund;
- 23 27. Major Information Technology Development Project  
24 Fund;
- 25 28. State Retirement Agency Funds;

- 1 29. Postretirement Health Benefits Trust Fund;
- 2 30. Maryland Emergency Medical System Operations  
3 Fund;
- 4 31. State Wildlife Management and Protection Fund;
- 5 32. Fisheries Management and Protection Fund;
- 6 33. Ocean Beach Replenishment Fund;
- 7 34. Community Services Trust Fund;
- 8 35. Waiting List Equity Fund;
- 9 36. Health Care Coverage Fund;
- 10 37. Health Services Cost Review Commission Fund;
- 11 38. Hospital Uncompensated Care Fund;
- 12 39. funds in the accounts of Morgan State University;
- 13 40. funds in the accounts of St. Mary's College of  
14 Maryland;
- 15 41. funds in the accounts of the University System of  
16 Maryland;
- 17 42. Maryland Prepaid College Trust Fund;
- 18 43. Nurse Support Program Assistance Fund;
- 19 44. funds in the accounts of the Baltimore City  
20 Community College;
- 21 45. Education Trust Fund;
- 22 46. Section 8 construction and administration funds  
23 administered by the Department of Housing and Community Development;
- 24 47. MacArthur Grant Fund;
- 25 48. all special funds within the Department of Business  
26 and Economic Development;

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- 1 49. Maryland Water Quality Revolving Loan Fund;
- 2 50. Maryland Drinking Water Revolving Loan Fund;
- 3 51. Bay Restoration Fund;
- 4 52. Migratory Game Bird Fund;
- 5 53. Deer Stamp Fund;
- 6 54. Wildlife Habitat Incentive Fund;
- 7 55. Fisheries Research and Development Fund;
- 8 56. Strategic Energy Investment Fund;
- 9 57. Criminal Injuries Compensation Fund;
- 10 58. 50% of the interest from the 9-1-1 Trust Fund;
- 11 59. all accounts within the State Reserve Fund;
- 12 60. local revenue accounts collected by the Judiciary;
- 13 61. Assistive Technology Loan Fund;
- 14 62. Veterans Trust Fund; [and]
- 15 63. Transportation Trust Fund; **AND**
- 16 **64. CHILD ABUSE PREVENTION FUND.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2012.